Dopag Dosiertechnik und Pneumatik AG (suing as the majority shareholder of Dopag Far East Sdn Bhd and acting in the interest of Dopag Far East Sdn Bhd) v Gamel Nasir Taib & Ors

HIGH COURT (KUALA LUMPUR) — SUIT NO 22NCVC-74–02 OF 2015
VAZEER ALAM MYDIN J
15 FEBRUARY 2017

Civil Procedure — Mareva injunction — Extension of order — Court granted pre-judgment Mareva injunction against defendants restraining them from dissipating company's assets — Court found in favour of plaintiff after full trial — Plaintiff applied for Mareva injunction to be extended post-judgment — Whether Mareva injunction could be extended post-judgment — Whether application for extension of Mareva injunction would in effect be perpetual injunction in contravention of s 54 of the Specific Relief Act 1950 — Whether application for extension was abuse of process — Whether risk of dissipation of assets proven — Courts of Judicature Act s 6 — Rules of Court 2012 O 29, O 45 & O 92 r 4 — Specific Relief Act 1950 s 54

On 8 July 2015, the court granted the plaintiff's application for pre-judgment Mareva injunction against the first and second defendants ('the defendants') in which the defendants were restrained from withdrawing money from their bank accounts, apart from their permitted monthly withdrawals of RM15,000 and RM10,000 respectively for their monthly expenses, and that both defendants were restrained from dissipating their assets up to the value of RM4.3m. After full trial, the court granted judgment for the plaintiff and found that the defendants had breached their statutory and fiduciary duties as directors of the fifth defendant, which had caused loss and damage to the fifth defendant. In the present action, the plaintiff applied for the Mareva injunction dated 8 July 2015 to be extended for a period to be determined by the court or until further order of the court on the ground that there was a great risk that the assets of the defendants would be removed from the jurisdiction of the court and dissipated thus frustrating the execution of the judgment. In opposing the application, the defendants submitted that: (a) the plaintiff's application under O 29 of the Rules of Court 2012 ('the ROC') could not be sustained because the said provision did not provide for any post-judgment extension of an injunction of this nature, as such, the plaintiff should filed fresh application; (b) the extension of Mareva injunction granted on 8 July 2015 would in effect be a perpetual injunction and that such an injunction would contravene the provisions of s 54 of the Specific Relief Act 1950 ('the Act');

(c) the application was an abuse of process on grounds that the plaintiff ought to avail itself of the various methods of execution of the judgment as set out in O 45 of the ROC instead of seeking post-judgment injunction; and (d) the plaintiff had failed to establish the all important element of risk of dissipation of assets by both the defendants for the grant of Mareva injunction and as such the application ought to be dismissed.

Held, allowing the application with costs of RM3,000:

(1) When a Mareva injunction had been granted during the interlocutory stage, that injunction could be extended post-judgment and there was no necessity to make a fresh application for a post-judgment injunction. The court had the statutory power to grant such an injunction by virtue of the provisions of s 6 of the Schedule to the Courts of Judicature Act 1964 as well as under the inherent powers of the court as provided under O 92 r 4 of the ROC (see paras 7–9).

(2) As the order sought in the present application was subject to any further order of the court, it could not be said to be a perpetual injunction that would be subservient to the statutory constraints of s 54 of the Act (see para 10).

(3) A post-judgment Mareva injunction that acts in personam against the defendants was quite apart from the execution proceedings envisaged in O 45 of the ROC. Both the post-judgment Mareva injunction and execution proceedings could co-exist to the extent that they serve the ends of justice. In the present action, the defendants were the architects of their own misfortune. They had brought about a huge loss to the fifth defendant through their questionable and unlawful conduct. The defendants were not in position to dictate when, how and what manner the execution of the judgment was to be carried out, especially when they were still in control of the fifth defendant's board of directors and were able to thwart any execution of the judgment (see paras 12–13).

(4) The court had already satisfied that there was a real risk of dissipation of assets on the part of the defendants when the court granted the Mareva injunction on 8 July 2015. The matters raised by the plaintiff as giving rise to the risk of dissipation on affidavit at the interlocutory stage had now been further established by *viva vorce* evidence at trial. Thus, the risk of dissipation was now more real. In any event, the risk of dissipation of assets could clearly be presumed from the defendants' lack of probity and dishonest conduct in dealing with the assets of the company. Such lack of probity may arise when monies are withdrawn or paid out without proper authority, as was the case here. In totality, the plaintiff had made out a very good case for Mareva injunction to be extended (see paras 14–15 & 17).

A **[Bahasa Malaysia summary**

Pada 8 Julai 2015, mahkamah telah memberikan permohonan plaintif untuk pra-penghakiman injunksi Mareva terhadap defendan-defendan pertama dan kedua ('defendan-defendan tersebut') di mana defendan-defendan telah dihalang daripada mengeluarkan wang dari akaun-akaun bank mereka, selain daripada pengeluaran bulanan mereka sejumlah RM15,000 dan RM10,000 masing-masingnya untuk perbelanjaan bulanan mereka, dan bahawa kedua-dua defendan telah dihalang daripada melesapkan aset-aset mereka yang bernilai RM4.3 juta. Selepas perbicaraan penuh, mahkamah memberikan penghakiman bagi plaintif dan mendapati bahawa defendan-defendan telah melanggar kewajipan statutori dan fidusiari sebagai pengarah-pengarah defendan kelima, yang telah menyebabkan kehilangan dan kerosakan kepada defendan kelima. Dalam tindakan ini, plaintif telah memohon untuk injunksi Mareva bertarikh 8 Julai 2015 untuk dilanjutkan bagi tempoh yang ditentukan ole mahkamah atau sehingga perintah mahkamah selanjutnya atas alasan bahawa terdapat risiko tinggi yang aset-aset defendan-defendan akan dialihkan daripada bidang kuasa mahkamah dan dilesapkan oleh itu menggagalkan pelaksanaan penghakiman itu. Dengan membantah permohonan itu, defendan-defendan berhujah bahawa: (a) permohonan plaintif di bawah A 29 Kaedah-Kaedah Mahkamah 2012 ('KM 2012') tidak boleh dikekalkan kerana peruntukan tersebut tidak memperuntukkan apa-apa lanjutan pra-penghakiman untuk injunksi bersifat sebegini, oleh itu, plaintif patut memfailkan permohonan baru; (b) lanjutan injunksi Mareva yang diberikan pada 8 Julai 2015 merupakan injunksi kekal dan bahawa injunksi tersebut adalah bertentangan dengan peruntukan s 54 Akta Relif Spesifik 1950 ('Akta tersebut'); (c) permohonan itu adalah penyalahgunaan proses atas alasan bahawa plaintif patut memanfaatkan dirinya sendiri kepada pelbagai cara berhubung pelaksanaan penghakiman sepertimana dinyatakan dalam A 45 KM 2012 dan bukan dengan memohon injunksi selepas penghakiman; dan (d) plaintif telah gagal untuk membuktikan kesemua elemen penting tentang risiko pelesapan aset-aset oleh kedua-dua defendan untuk injunksi Mareva diberikan dan oleh itu permohonan tersebut patut ditolak.

Diputuskan, membenarkan permohonan dengan kos RM3,000:

(1) Apabila injunksi Mareva telah diberikan semasa peringkat interlokutori, injunksi tersebut boleh menjadi pasca penghakiman yang dilanjutkan dan tiada keperluan untuk membuat permohonan baru untuk injunksi pasca penghakiman. Mahkamah mempunyai kuasa statutori untuk memberikan injunksi sedemikian menurut peruntukan s 6 kepada Jadual dalam Akta Mahkamah Kehakiman 1964 dan juga di bawah kuasa sedia ada mahkamah sepertimana diperuntukkan di bawah A 92 k 4 KM 2012 (lihat perenggan 7–9).

(2) Oleh kerana perintah dalam permohonan ini tertakluk kepada apa-apa

perintah selanjutnya oleh mahkamah, ia tidak boleh dikatakan sebagai injunksi kekal yang akur kepada kekangan statutori s 54 Akta tersebut (lihat perenggan 10).

(3) Injunksi Mareva pasca penghakiman yang bertindak *in personam* terhadap defendan-defendan adalah berbeza daripada prosiding pelaksanaan yang termaktub dalam A 45 KM 2012. Kedua-dua injunksi Mareva pasca penghakiman dan prosiding pelaksanaan boleh wujud bersama berhubung kandungan yang mana ia adalah demi keadilan. Dalam tindakan ini, defendan-defendan adalah penyebab nasib malang mereka sendiri. Mereka telah menyebabkan kerugian besar kepada defendan kelima melalui perbuatan mereka yang dipersoalkan dan menyalahi undang-undang. Defendan-defendan bukan dalam kedudukan untuk mengarah bila, bagaimana dan cara apa pelaksanaan penghakiman itu patut dijalankan, terutamanya apabila mereka masih dalam kawalan lembaga pengarah defendan kelima dan boleh menggagalkan apa-apa pelaksanaan penghakiman (lihat perenggan 12–13).

(4) Mahkamah telahpun berpuas hati bahawa terdapat risiko sebenar di pihak defendan-defendan apabila mahkamah memberikan injunksi Mareva pada 8 Julai 2015. Perkara-perkara yang ditimbulkan oleh plaintif yang menimbulkan risiko pelesapan berhubung afidavit di peringkat interlokutori kini telahpun dibuktikan selanjutnya melalui keterangan *viva vorce* semasa perbicaraan. Oleh itu, risiko pelesapan kini lebih nyata. Dalam apa keadaan, risiko pelesapan aset-aset jelas boleh diandaikan daripada ketidakjujuran dan tingkah laku yang tidak jujur defendan-defendan dalam berurusan dengan aset syarikat itu. Ketidakjujuran itu mungkin timbul apabila wang yang dikeluarkan atau dibayar tanpa kuasa sebenar, sepertimana dalam kes ini. Secara keseluruhan, plaintif telah membuktikan kes yang kukuh untuk injunksi Mareva dilanjutkan (lihat perenggan 14–15 & 17).]

Notes

For a case on extension of order, see 2(4) *Mallal's Digest* (5th Ed, 2017 Reissue) para 6601.

Cases referred to

Ang Chee Huat v Engelbach Thomas Joseph [1995] 2 MLJ 83, CA (refd)

Multi-code Electronic Industries (M) Bhd & Anor v Gordon Toh Chun Toh & Ors [2009] 9 CLJ 659, HC (refd)

Orwell Steel (Erection and Fabrication) Ltd v Asphalt and Tarmac (UK) Ltd [1985] 3 All ER 747; [1984] 1 WLR 1097, QBD (refd)

Pacific Centre Sdn Bhd v United Engineers (Malaysia) Bhd [1984] 2 MLJ 143; [1984] 2 CLJ 56 (refd)

A *Pharmmalaysia Bhd v Dinesh Kumar Jashbhai Nagjibha Patel & Ors* [2004] 7 CLJ 465, HC (refd)
Robert Doran & Ors v Kuan Pek Seng & Ors [2010] 6 CLJ 105, HC (refd)
S & F International Limited v Trans-Con Engineering Sdn Bhd [1985] 1 MLJ 62, FC (refd)
B *Seema Development Sdn Bhd v Mah Kim Chye and Another Action* [1997] MLJU 235; [1998] 1 CLJ 174, HC (refd)
Stewart Chartering Ltd v C & O Managements SA and others; The Venus Destiny [1980] 1 All ER 718; [1980] 1 WLR 460, QBD (refd)
C *Zainal Abidin bin Haji Abdul Rahman v Century Hotel Sdn Bhd* [1982] 1 MLJ 260, FC (refd)

Legislation referred to

Companies Act 1965 s 150
D Courts of Judicature Act 1964 Schedule, s 6
Rules of Court 2012 O 29, O 29 r 1(1), O 45, O 92 r 4
Specific Relief Act 1950 s 54

G Vijay Kumar (Chan Mun Yew with him) (Lee Hishamuddin Allen & Gledhill) for the plaintiff.
E *Esther Geetha Jayaraja (Tan Yee Chian with her) (Chew Das & Jayaraja) for the first and second defendants.*

Vazeer Alam Mydin J:

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[1] The plaintiff had at the interlocutory stage of proceedings applied vide encl 10 for a pre-judgment Mareva injunction against the first and second defendants, which I granted on 8 July 2015. The terms of the Mareva injunction order against the first and second defendants include, inter alia, that
G the first and second defendants are restrained from withdrawing money from their bank accounts, apart from their permitted monthly withdrawals of RM15,000 and RM10,000 respectively for their monthly expenses, and that both defendants are restrained from dissipating their assets up to the value of RM4.3m. The duration of the Mareva injunction order was until full disposal
H of the plaintiff's suit or until further order of the court.

[2] I had on 11 August 2016 granted judgment for the plaintiff against the first and second defendants after full trial, wherein I found that the first and
I second defendants had breached their statutory and fiduciary duties as directors of the fifth defendant, which had caused loss and damage to the fifth defendant. The first and second defendants were pursuant to the judgment, among others, ordered to pay the fifth defendant the sum of RM5,411,050.10 and costs of RM90,000.

[3] Thereafter, in aid of execution of the judgment, the plaintiff applied via notice of application dated 8 September 2016 (encl 140) for the Mareva injunction dated 8 July 2015 to be extended for a period to be determined by the court or until further order of the court. The grounds for that application is, inter alia, that there is a great risk that the assets of the first and second defendants would be removed from the jurisdiction of this court and dissipated thus frustrating the execution of the judgment.

[4] The first and second defendants opposed the application. After hearing arguments, I allowed the application in encl 140. My reasons for that decision are as follows.

[5] The first and second defendants oppose this application essentially on three grounds, namely, that:

(a) the application is completely baseless, without merit frivolous and an abuse of process;

(b) the application is essentially for a permanent injunction which would contravene s 54 of the Specific Relief Act 1950; and

(c) the plaintiff failed to prove real risk of dissipation of assets.

[6] The first and second defendants argue that the plaintiff's application, which is premised on the provisions of O 29 of the Rules of Court 2012 ('the ROC'), cannot be sustained because O 29 of the ROC does not provide for any post-judgment extension of an injunction of this nature. Notwithstanding this argument, the first and second defendants further contend that if the plaintiff were desirous of seeking a post-judgment injunction in aid of execution, then the plaintiff ought not to be allowed to refer back to the earlier Mareva injunction order for its terms to be similarly couched, and that it ought to be a fresh application altogether.

[7] I am unable to accept these arguments. A Mareva injunction can be granted post-judgment and if such an injunction had been granted at the interlocutory stage it can be extended post-judgment to aid in the execution of the judgment. In *Seema Development Sdn Bhd v Mah Kim Chye and Another Action* [1997] MLJU 235; [1998] 1 CLJ 174 the plaintiff had applied for a post-judgment Mareva injunction and Abdull Hamid Embong J (later FCJ) held that:

> *Order 29 r 1(1) of the Rules of the High Court provides that an application for grant of an injunction may be made before or after the trial of a cause or matter.* That this court is seised with the power to now grant this injunction is well illustrated in *Orwell Steel (Erection and Fabrication) Ltd v Asphalt and Tarmac (UK) Ltd* [1984] 1 WLR 1097 where it was held that the court had the power to grant an interlocutory injunction

between final judgment and execution. Farquharsan J at p 1100 further held that a Mareva injunction may be used to aid execution. His Lordship stated:

> If there is such a power, *there seems to be no logical reason why a Mareva injunction should not be used in aid of execution*. Indeed, in one sense it could be said that there is greater justification for restraining a defendant from disposing of his assets after judgment than before any claim has been established against him. It is true that there is a variety of methods for enforcing execution as set out in RSC O 45 r 1 and once the plaintiff has obtained judgment it may be said that he should pursue the remedies provided by the rules rather than extend the application of Mareva injunctions still further. The answer to that objection is that, as has been frequently pointed out, the Mareva injunction acts in personam on the defendant and does not give the plaintiff any rights over the goods of the defendant nor involve any attachment of them. In this context it would have the effect of preserving the defendant's goods until execution could be levied upon them; and *the remedies of injunction and execution can take effect side by side. Such was the view of Robert Goff J in Stewart Chartering Ltd v C&O Managements SA* [1980] 1 WLR 460 *where he continued a Mareva injunction granted before judgment in aid of execution.* Plainly an injunction will only be granted where the plaintiff can adduce evidence of a kind which normally supports an application for a Mareva injunction, namely, that there are grounds for believing that the judgment debtor will dispose of his assets to avoid execution.
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> Perhaps such grounds may be more readily established after judgment than before it. The present application was therefore granted.

Further, in *Stewart Chartering Ltd v C & O Managements SA and others; The Venus Destiny* [1980] 1 All ER 718; [1980] 1 WLR 460, which was quoted by Abdull Hamid Embong J in the above case and referred to in the *Malaysian Civil Procedure* (Vol 1, Sweet & Maxwell, 2015) at p 404, Robert Goff J (as he then was) held:

> The purpose of a Mareva injunction order is to prevent a defendant from removing his assets from the jurisdiction so as to prevent the plaintiff from obtaining the fruits of his judgment; from this it follows that *the policy underlying the Mareva injunction can be given effect to if the court has the power to continue the Mareva injunction after judgment, in aid of execution.*

[8] Thus, the law is well settled that a Mareva injunction can not only be granted at the interlocutory stage but may also be granted post-judgment. This court has the statutory power to grant such an injunction by virtue of the provisions of s 6 of the Schedule to the Courts of Judicature Act 1964. See *Zainal Abidin bin Haji Abdul Rahman v Century Hotel Sdn Bhd* [1982] 1 MLJ 260 (FC). And as pointed out by Edgar Joseph Jr J (later FCJ) in *Pacific Centre Sdn Bhd v United Engineers (Malaysia) Bhd* [1984] 2 MLJ 143; [1984] 2 CLJ 56 (HC) the Rules of Court are not merely rules of practice but have statutory force, and that the court has inherent powers by virtue of O 92 r 4 of the ROC to make any order as may be necessary to prevent injustice, and that would

include the grant of a post-judgment Mareva injunction.

[9] Thus, the court is seized with power to order the extension of an interlocutory Mareva injunction after judgment or granted it afresh. And as pointed out by Abdull Hamid Embong J (as he then was) in *Seema Development*, O 29 r 1(1) of the ROC specifically provides that an injunction may be made after the trial of a cause or matter, and that would include a Mareva. As such, I am of the opinion that when a Mareva injunction has been granted during the interlocutory stage, that injunction can be extended post-judgment and there is no necessity to make a fresh application for a post-judgment injunction.

[10] The first and second defendants further argue that the extension of the Mareva injunction granted on 8 July 2015 would in effect be a perpetual injunction and that such an injunction would contravene the provisions of s 54 of the Specific Relief Act 1950. I find this argument to be tenuous. The extension of the Mareva injunction is to aid in execution of the judgment. Therefore, when the judgment is satisfied, the injunction will stand to be dissolved. If and when the judgment is satisfied, either defendants may apply to court for an order to discharge the Mareva injunction. A large part of the judgment concerns the funds of the fifth defendant that was paid out to both defendants in breach of their statutory and fiduciary duties. There is unjust enrichment on the part of the defendants. Thus, the defendants are liable to account for these funds and disgorge them to the fifth defendant. As the order sought is subject to any further order of the court, it cannot be said to be a perpetual injunction that would be subservient to the statutory constraints of s 54 of the Specific Relief Act 1950.

[11] The first and second defendants further argue that the application is an abuse of process on grounds that the plaintiff ought to avail itself of the various methods of execution of the judgment as set out in O 45 of the ROC instead of seeking this post-judgment injunction. In the *Orwell Steel (Erection and Fabrication) Ltd v Asphalt and Tarmac (UK) Ltd* [1985] 3 All ER 747; [1984] 1 WLR 1097 case a similar argument was raised, and in dismissing that argument, Farquharsan J held that:

> It is true that there are a variety of methods for enforcing execution as set out in RSC Ord 45, r 1 and once the plaintiff has obtained judgment it may be said that they should pursue the remedies provided by the rules rather than extend the application of Mareva injunction still further. The answer to that objection is that, as has been frequently pointed out, the Mareva injunction acts in personam on the defendant and does not give the plaintiff any rights over the goods of the defendant or involve any attachment of them. In this context it would have the effect of preserving the defendant's goods until execution could be levied on them; and the remedies of injunction and execution take effect side by side.

[12] Thus, it is abundantly clear that a post-judgment Mareva injunction that acts in personam against the defendants is quite apart from the execution proceedings envisaged in O 45. Both the post-judgment Mareva injunction and execution proceedings can co-exist to the extent that they serve the ends of justice. The plaintiff reiterates that the fifth defendant, being the judgment creditor, is the proper party to execute the judgment and not the plaintiff. However, learned counsel for the plaintiff submits that the plaintiff cannot execute the judgment at the moment, as the plaintiff has not regained control of the fifth defendant. The first and second defendants are still in control of the board and the first defendant being the other shareholder apart from the plaintiff has frustrated all attempts to convene a general meeting to bring about changes to the board's composition.

[13] In this regard, the plaintiff further submits that the first and second defendants are well aware that the plaintiff had filed an originating summons (under Originating Summons No WA-24NCC-371–09 of 2016) for a court order to convene an extraordinary general meeting ('EGM') of the fifth defendant, pursuant to s 150 of the Companies Act 1965. This application was pending adjudication. The plaintiff states that once the plaintiff regains control of the fifth defendant by virtue of the EGM, execution proceedings will be promptly issued. Therefore, the plaintiff submits that this application for the Mareva injunction to continue is necessary to aid in the execution of the judgment now and after the plaintiff regains control of the company. I see weight and substance in this argument. The first and second defendants are the architects of their own misfortune. They had brought about huge loss to the fifth defendant through their questionable and unlawful conduct. The first and second defendants are not in a position to dictate when, how and in what manner the execution of the judgment is to be carried out, especially when they are still in control of the fifth defendant's board of directors and are able to thwart any execution of the judgment.

[14] Finally, the first and second defendants submit that the plaintiff has failed to establish the all important element of risk of dissipation of assets by both defendants for the grant of a Mareva injunction and as such argue that encl 140 ought to be dismissed. Again, I find that this argument too is unconvincing. The fact of the matter is that I was already satisfied that there was a real risk of dissipation of assets on the part of the first and second defendants when I granted the Mareva injunction on 8 July 2015. The matters raised by the plaintiff as giving rise to the risk of dissipation on affidavit at the interlocutory stage have now been further established by viva vorce evidence at trial. Thus, the risk of dissipation is now more real. As was pointed by the learned judge in the *Orwell Steel* case:

> Plainly an injunction will only be granted where the plaintiff can adduce evidence of a kind which normally supports an application for a Mareva injunction, namely

that there are grounds for believing that the judgment debtor will dispose of his assets to avoid execution, *Perhaps such grounds may be more readily established after judgment than before it*.

[15] In any event, the risk of dissipation of assets can clearly be presumed from the first and second defendants lack of probity and dishonest conduct in dealing with the assets of the company — see *Multi-code Electronic Industries (M) Bhd & Anor v Gordon Toh Chun Toh & Ors* [2009] 9 CLJ 659 where Kang Hwee Gee J held:

The only other element which the court needs to enquire into is whether there is a risk of dissipation. I accept the reasoning of Greeson CJ in *Patterson v BTR Engineering (Aust) Ltd and Others* [1989] 18 NSWLR 319 (cited by counsel for the plaintiffs) that 'where a prima facie case of dishonesty involving diversion of money from its proper channels' is made out, 'this would justify the conclusion that there was a danger that the appellant would dispose of the assets in order to defeat the judgment'.

There could be no question that the monies were withdrawn dishonestly for they were withdrawn without the authority of the Board. The risk of dissipation must be presumed under the circumstances.

The law is clear that where there is a lack of probity on the part of the defendants, the court may assume that there is such risk of dissipation. Such lack of probity may arise when monies are withdrawn or paid out without proper authority, as was the case here. See also *Pharmmalaysia Bhd v Dinesh Kumar Jashbhai Nagjibha Patel & Ors* [2004] 7 CLJ 465; *Robert Doran & Ors v Kuan Pek Seng & Ors* [2010] 6 CLJ 105.

[16] The plaintiffs must demonstrate that the defendants' previous actions show their probity is not to be relied upon and that there is a risk that assets will be dissipated. See *Ang Chee Huat v Engelbach Thomas Joseph* [1995] 2 MLJ 83; and *S & F International Limited v Trans-Con Engineering Sdn Bhd* [1985] 1 MLJ 62. The conduct of the first and second defendants in bringing about large losses to the fifth defendant, which arose from their blatant disregard and breach of statutory and fiduciary duties owed to the fifth defendant. Large sums of monies belonging to the fifth defendant were paid out unlawfully to both the first and second defendants. These unlawful conduct of the first and second defendants fortifies the plaintiff's contention that there is apparent risk of assets being dissipated. Further, the judgment orders the first and second defendants to pay damages amounting to approximately RM5.4m to the fifth defendant. However, the affidavits deposed by both the defendants on 6 September 2016 shows that they both have collective cash assets of only RM3.5m. Thus, prima facie the risk of dissipation of their assets becomes greater given that judgment has been entered against them and they have been ordered to pay substantial damages.

[17] In the circumstance, I find that the plaintiff has made out a very good case for the Mareva injunction to be extended. Wherefore, I allowed prayers (1)–(5) of encl 140. Cost was fixed at RM3,000.

Application allowed with costs of RM3,000.

Reported by Dzulqarnain Ab Fatar